

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Docket No:
04-CV-397(GBD)(rle)

SOKOLOW, *et al.*,

Plaintiffs,

-against-

PALESTINE LIBERATION ORGANIZATION *et al.*,

Defendants.

EXPERT REPORT OF DR. JEFFREY F. ADDICOTT

Qualifications

I am a full Professor of Law at St. Mary's University School of Law, San Antonio, Texas, where I am the Director of the Center for Terrorism Law. I teach courses on terrorism law, national security law, criminal law, constitutional law and other subjects at the School of Law. Since 1980, when I began my teaching career I have taught courses at numerous universities and law schools both in the United States and abroad.

I hold a Doctor of Juridical Science (S.J.D.) and a Masters of Law (LL.M.) from the University of Virginia School of Law Graduate Program. I also hold a Masters of Laws (LL.M.) from the U.S Army Judge Advocate General's School located in Charlottesville, Virginia. These degrees specialized in National Security Law. In addition, I hold a Juris Doctor (J.D.) from the University of Alabama School of Law, Tuscaloosa, Alabama as well as a Bachelor of Arts (B.A.) with Honors from the University of Maryland, College Park, Maryland. I am a member of the Bar of Alabama, the U.S. Supreme Court, and the Court of Military Appeals.

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I hold the rank of Lt. Col. (U.S. Army, ret). I had served as an active duty Army officer in the United States' Judge Advocate General's Corps for twenty years. For a period of five years, from 1987-1989 and 1995-1998, I served as the senior legal advisor to the United States Army's Special Forces. I also served as the Deputy Chief of the International and Operational Law Division at the Pentagon.

A copy of my C.V. is attached hereto as Exhibit A.

I regularly lecture to professional, law enforcement, military and academic organizations in the United States and abroad, including the Middle East, on topics of terrorism, national security law, terrorism law and constitutional law. I have delivered more than 600 lectures on these topics. My foreign presentations include numerous professional lectures at universities and government institutions in Colombia, Peru, Ukraine, Germany, France, Austria, Canada, Thailand, Japan, India, Honduras, Haiti, Egypt, Kuwait, Panama, Guatemala, Albania, Okinawa, South Korea, England, Mexico, Sweden, Ireland, Scotland, Greece, Israel, Russia, Luxembourg, China, and Uruguay.

A copy of the list of my public lectures is attached hereto as Exhibit B.

In addition, I lecture four times a year at the United States' Federal Bureau of Investigation (FBI) Academy in Quantico, Virginia. I provide the FBI Academy with lectures on terrorism, national security and constitutional law. In addition, I am a senior partner with the FBI on academic projects associated with terrorism, to include publications.

Moreover, I am also a frequent contributor to national and international news media outlets including FOX NEWS Channel, MSNBC, CNN, BBC, New York Times, Washington

Post, Wall Street Journal, and USA Today. I have contributed to more than 3,000 news programs.

A copy of the list of my media appearances is attached hereto as Exhibit C.

I have published over 40 books, articles, and monographs on a variety of legal topics including *Terrorism Law: Cases, Materials, Comments*, 6th edition.

The following is the list of books and book chapters I have published going back more than 10 years:

Books

- *Globalization, International Law, and Human Rights*, Addicott, Bhuiyan, & Chowdhury (New Delhi, India: Oxford University Press, 2012).
- *Terrorism Law: Materials, Cases, Comments*, 6th ed (Tucson, AZ: Lawyers and Judges Pub. Co., 2011).
- *Constitutional Rights for Guantanamo Detainees: An Immediate Look at the Legal and Governmental Ramifications of Boumediene v. Bush*, Addicott & Rose III (New York, NY: Thompson/Aspatore Pub. Co., 2008).
- *Selected Essays on State Open Government Law and Practice in a Post-9/11 World*, Addicott & Garcia, editors, (Tucson, AZ: Lawyers and Judges Pub. Co., 2008).
- *State Open Government Law and Practice in a Post-9/11 World*, Addicott, Cochran, Dalglish & Winegar, editors, (Tucson, AZ: Lawyers and Judges Pub. Co. 2007).

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- *Human Rights & International Humanitarian Law Handbook* (Bogota, Colombia: Imprenta y Publicaciones de las Fuerzas Militares, 1999).
- *Law of War: Handbook for Officers of Armed Forces of Ukraine* (Kiev, Ukraine: Lubava Pub. Co., 1996).
- *Code of Conduct for Participants in Military Operations*, (Kiev, Ukraine, Ministry of Defense: Lubava, 1995).
- *Derechos Humanos: Decalogo de las Fuerzas del Orden*, (Lima, Peru: Comando Conjunto de las Fuerzas Armadas, 1993).

Book Chapters

- *Is the Use of Coercive Interrogation or Torture Permissive and Effective as a Counter-terrorism Method?*, in *Contemporary Debates on Terrorism* (Richard Jackson & Samuel Justin Sinclair, 2012).
- *Radical Islam's Manipulation of the Media* (with Nathaniel Fulmer & Robert Gunn), in *Terrorism Research & Analysis Project (TRAP): A Collection of Thoughts, Ideas, & Perspectives*, Vol. 1 (Andrew Bringuel, ed., 2011).
- *Cyberterrorism: Legal and Policies Issues*, in *Legal Issues in the Struggle Against Terror* (John Norton Moore & Robert Turner, eds., 2010).
- *The War on Terror: War or Metaphor?*, in *Political Leadership* (Joseph Masciulli, Mikhail A. Molchanov & W. Andy Knight, eds., 2009).

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- *Institutionalizing Human Rights in the Militaries of the Emerging Democracies: The Case of Peru, in Fear of Persecution: Global Human Rights, International Law, and Human Well-Being*, (James D. White & Anthony J. Marsella, eds., 2007).
- *Teaching Intelligent Design and the Anthropic Principle in the Public Schools, in 1-3 Encyclopedia of American Civil Liberties* (Paul Finkelman, ed., 2006).
- *The Role of Special Operations Forces in the War on Terror, in The Global War on Terrorism: Assessing the American Response*, (John Davis, editor, 2006). (Hauppauge, NY: Nova Science Pub. Inc., 2004).
- *Terrorism and Weapons of Mass Destruction: A Review and New Paradigm, in Transnational Threats: Blending Law Enforcement and Military Strategies*, (Carolyn W. Pumphrey, ed., 2000).
- *The Appeal of Dr. Samuel A. Mudd, in Dr. Mudd and the Lincoln Assassination: The Case Reopened*, John Paul Jones, ed., 1995).

Law Journal Articles, Reviews and Essays

The following is a list of law review articles, reviews and essays I have published dating from more than 10 years ago:

- *Terrorism and Weapons of Mass Destruction*, *Managing Security Today*, February 2013, at 22.
- *Nation was Jolted this Summer by Two Unrelated Tragedies*, *Managing Security Today*, September 2012, at 22.

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- *Maritime Piracy & Private Security Contractors*, Managing Security Today, May 2012, at 38 (with Ben Marshall).
- *Cyber Security and the Government/Private Sector Connection*, American Bar Association's Government and Public Sector Lawyer's Division, Spring 2012, Vol. 21, No.3, at 1.
- *Labeling Mexican Cartels as Terrorist Organizations*, Managing Security Today, January 2012, at 23.
- *Anwar al-Awlaqi and the Law of War*, JURIST, October 2011.
- *Obama's Phased Withdrawal Spells America's Defeat in Afghanistan*, Managing Security Today, September 2011, at 12.
- *American Punitive Damages vs. Compensatory Damages in Promoting Enforcement in Democratic Nations of Civil Judgments to Deter State-Sponsors of Terrorism*, 5 University of Massachusetts Roundtable Symposium Law Journal 192 (Winter 2010).
- *Calls for National Identity Card to Halt Illegal Immigration*, Managing Security Today, September 2010, at 19.
- *Efficacy of the Obama Policies to Combat Al-Qa'eda, the Taliban, and Associated Forces-The First Year*, 30 Pace Law Review 340 (2010).
- *Good News About GTMO and Bagram*, JURIST, February 2010.
- *No Torture, No Prosecution*, JURIST, May 2009.

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- *The Political Question Doctrine and Civil Liability for Contracting Companies on the "Battlefield,"* 28 Review of Litigation 343 (2008).
- *The Protect America Act of 2007: A Framework for Improving Intelligence Collection in the War on Terror,* 13 Texas Review Law & Policy 43 (2008) (with Congressman Michael T. McCaul).
- *The Military Commissions Act: Congress Commits to the War On Terror,* JURIST, October. 2006.
- *The Misuse of Religion in the Global War on Terrorism,* 7 Barry L. Rev. 109 (2006).
- *Contractors on the "Battlefield": Providing Adequate Protection, Anti-Terrorism Training, and Personnel Recovery for Civilian Contractors Accompanying the Military in Combat and Contingency Operations,* 28 Houston Journal of International Law 323 (2006).
- *The Abu Ghraib Story,* 2 Israeli Defense Forces Law Review 35 (2006).
- *The UN Guantanamo Report: False Premise, Flawed Conclusions,* JURIST, March 2006.
- *The Practice of Rendition in the War on Terror,* 6 The Long Term View 77 (Spring 2006).
- *Terrorism Law,* 33 The Reporter 157 (2006).
- *St. Mary's Center for Terrorism Law,* San Antonio Lawyer, July-August 2006, at 12.
- *Military Justice at Abu Ghraib,* JURIST, September 2005.

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- *Cyberterrorism: Partnership Between the Private Sector and the Government*, The 9th World Multiconference on Systemics, Cybernetics and Informatics, July 2005, at 375.
- *Profile: The Center for Terrorism Law*, Safeguard Review, Aug./Sept. 2005, at 4.
- *Trying Saddam Hussein: Go International or Not?*, JURIST, March 2005.
- *In Defense of US. Counterterror Policies*, 9 Peace & Policy 21 (2004).
- Book Review: *Law and Bioterrorism*, 28 Melbourne University Law Review 253 (2004).
- *Into the Star Chamber: Does the United States Engage in the Use of Torture or Similar Illegal Practices in the War on Terror?*, 92 Kentucky Law Journal 849 (2003-2004).
- *Proposal for a New Executive Order on Assassination*, 37 University of Richmond Law Review 751 (2003).
- *Storm Clouds on the Horizon of Darwinism: Teaching the Anthropic Principle and Intelligent Design in the Public Schools*, 63 Ohio State Law Journal Review 1508 (2002).
- *Legal and Policy Implications for a New Era: The War on Terror*, 4 The Scholar: St. Mary's Law Review on Minority Issues 209 (2002).
- *Building Democracies with Southern Command's Legal Engagement Strategy*, 31 Parameters 72 (2001) (with Guy B. Roberts).
- *Promoting Human Rights Values in Cuba's Post-Castro Military*, 3 Journal of National Security Law 11 (1999) (with Manuel Supervielle).
- *Las Fuerzas Especiales y la Promocion de los Derechos Humanos*, Dialogo, Apr-June 1997, at 13.

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- *Human Rights and Special Forces*, Special Warfare, Dec. 1996, at 30.
- *A Special Forces Human Rights Policy*, *The Army Lawyer*, Sept. 1996, at 47.
- *Legal Training Handbook for the Ukrainian Military*, *The Army Lawyer*, July 1995, at 60.
- *Institutionalizing Human Rights Values in the Militaries of the New Democracies: The Case of Peru* (Doctoral Thesis, Charlottesville, VA 1994).
- *Recent Army JAG Corps Initiatives to Enhance Human Rights Training at the School of the Americas*, *The Army Lawyer*, Dec. 1994, at 45.
- *Policy Guidance for the Transfer of DoD Installations to the Government of Panama*, *The Army Lawyer*, Oct. 1994, at 68.
- *Promoting the Rule of Law and Human Rights*, *Military Review*, Aug. 1994, at 38, (with Andrew M. Warner), reprinted in part as *Nuevas Misiones para los Auditores*.
- *Militares: Promoviendo el Imperio de la Ley en las Fuerzas Armadas de Democracias Emergentes Inestables*, *Military Review Edicion Hispanoamericana*, May-June 1994, at 2.
- *25th Anniversary of My Lai: Time to Inculcate the Lessons*, 139 *Military Law Review* 153 (1993) (with William A. Hudson, Jr.).
- *Military Medical Witness in Litigation*, *Military Medicine*, Apr. 1993, at 126.

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- *New Missions for JAGs: Promoting the Rule of Law in Militaries of Emerging Democracies*, American Bar Association National Security Law Report, Mar. 1993, at 1 (with Andrew M. Warner).
- *JAG Corps Poised for New Defense Missions: Human Rights Training in Peru*, The Army Lawyer, Feb. 1993, at 78 (with Andrew M. Warner).
- *Lecons du Passe - My Lai*, 31 Revue de Droit Militaire et de Droit de la Guerre 73 (1992), reprinted in part at 139 Military Law Review 153.
- *Operation Desert Storm*, R. E. Lee or W. T. Sherman, 136 Military Law Review 115 (1992) reprinted in Command Magazine, July-Aug. 1992, at 38.
- *Codification of the Special Forces Exception*, The Army Lawyer, May 1992, at 36.
- *The Status of the Diplomatic Bag: A Proposed American Position*, 13 Houston Journal of International Law 221 (1991).
- *The United States of America: Champion of the Rule of Law or the New World Order?*, 6 Florida Journal of International Law 63 (1990).
- *Proceedings of the First Center for Law and Military Operations Symposium*, 18-20 April 1990, The Army Lawyer, Dec. 1990, at 47.
- *Developing a Security Strategy for Indochina*, 128 Military Law Review 35 (1990).

Prior Testimony

I have also provided expert testimony in the case of the *United States v. David Staffel*, an Article 32 hearing (USJC) held at Fort Bragg, NC in 2007.

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I have also testified before the United States Congress and Senate on four occasions and on terrorism law issues and have submitted *Amicus Curie* briefs (2004 and 2009) to the United States Supreme Court.

My fees for preparation and testimony in the instant matter are \$300.00 per hour plus expenses.

OPINION

My opinion as set forth below is based upon my academic studies, research, lecturing and publishing over the course of over thirteen years as a professor of law and Director of the Center for Terrorism Law, St. Mary's University School of Law; and lecturer at numerous academic and professional institutions around the world, to include the FBI Academy and other international law enforcement agencies. During the course of my professional career and academic research, I have obtained information from interviews with political leaders, fellow scholars, military officers, and captured terrorists, to include detainees at the U.S. Naval facility at Guantanamo Bay, Cuba. In addition, I have reviewed numerous documents, periodicals, credible news reports, discussions with reliable journalists from CNN, ABC, NBC, CBS, BBC, FOX NEWS, Al-Jazeera, New York Times, Washington Post, etc., government publications, and scholarly works, as well as from my own observations and experiences living and visiting various countries in the Middle East including Egypt, Israel, and Kuwait.

In preparing this opinion, I have examined the complaint filed by the plaintiffs against the defendants in the case of *Sokolow et al., v. Palestinian Authority et al.*

I will demonstrate herein that the Fatah faction and the Palestinian Authority (PA), which were effectively indistinguishable from one another and both led by Yasser Arafat during the

relevant time period, were responsible for the terror campaign known as the al-Aqsa *Intifada*, or second *Intifada*, that claimed both Israeli and American lives, among others during the period relevant to this case. In addition to the hundreds of innocent Israelis killed during this campaign, scores of innocent Americans lost their lives in this conflict. The PA was fully aware of the fact that, in its campaign of violence against Israelis, Americans were at risk of falling victim to these attacks. I will identify specific requests by the United States to the PA to stop the violence because American citizens were being killed. I further note that the American casualties continued to mount during the 2000-2004 time frame, even after the PA became aware of the danger to American citizens. The intifada continued unabated, and fueled by the Palestinian leadership.

PA/Fatah's Sponsorship and Incitement of Terror Attacks

In September 2000, after seven years of attempted peace-making with Israel, Palestinian Authority president, PLO Chairman and Fatah faction leader Yasser Arafat elected to turn his back on the Oslo Process, a diplomatic initiative that was designed to help the Palestinians and Israelis achieve peace in phases. The undisputed leader of the Palestinians elected to instead launch a low level war against the Israelis, now known as the *al-Aqsa Intifada*.

Palestinians, for their part, claim that the violence was sparked by the unwelcomed visit of Israeli politician (and future prime minister) Ariel Sharon, with a full security entourage, to the Temple Mount in Jerusalem-a site sacred to both Jews and Muslims-on September 20, 2000. The Palestinians insisted that that the former IDF general pushed the Palestinians to take up arms. This explanation for the uprising, however, was ultimately undermined by Imad Faluji, a

member of the PA and minister of communications. Faluji was quoted as saying that the violence was "planned since [Arafat] the President returned from the recent talks at Camp David" when peace talks collapsed in July 2000.¹ More recently, Suha Arafat, Yasser's widow, admitted that Arafat had planned the *intifada*.² Nevertheless, even if one accepts the view that the "spark" was not orchestrated, it is clear that Arafat utilized the incident as an excuse to orchestrate his planned *al-Aqsa Intifada*.

Arafat launched the 2000 *intifada* when he realized that his stated policy of negotiating with Israel was not winning him Palestinian support. When Arafat moved from Tunisia to the West Bank after the signing of the Oslo Accords, he immediately imposed the PLO's authority over his people and the 30,000 man security force he maintained. He almost certainly realized that Hamas' popularity had been growing steadily since 1987 due to its image as a "resistance" group, reinforced by tough talk and attacks against Israel. This message resonated on the Palestinian street. All the while, Arafat, who attempted to gain legitimacy as the sole representative of the Palestinian people, watched his PLO and Fatah faction plummet in popularity. When forced to make a choice between peace and compromise or violence and rejectionism, Arafat chose war.

In his attempt to reclaim his lost status as the liberator of the Palestinian people, Arafat began to wield Islamist rhetoric similar to that of Hamas. He made Jerusalem, perhaps the lowest common denominator among Palestinians, a focal point of the violence. "We are marching,

¹ "PA Minister of Communications: Intifada Already Planned When Arafat Returned from Camp David," *Palestinian Media Watch*, December 5, 2000, <http://www.youtube.com/watch?v=T-SY8JxyUQA>.

² "'Suha Arafat Admits Husband Premeditated Intifada'," *The Jerusalem Post*, December 29, 2012, <http://www.jpost.com/MiddleEast/Article.aspx?id=297688>.

millions of martyrs to Jerusalem," chanted one frenzied crowd at an Arafat rally in December 2001.³

During the *intifada*, Arafat's Fatah faction through its Al-Aqsa Martyrs Brigades (AAMB) co-opted Islamic symbols and slogans. More importantly, however, by 2002, the AAMB had claimed responsibility for dozens of attacks in which Israeli and foreign civilians were killed. The group rivaled Hamas in its headline-grabbing attacks against civilian targets.

According to the U.S. Department of State, Fatah's AAMB "has killed a number of US citizens, the majority of them dual US-Israeli citizens, in its attacks."⁴ Accordingly, the AAMB were designated as a foreign terrorist organization in 2002 by the U.S. Department of State after it was determined that the group "has committed, or poses a serious risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States."⁵

On March 21, 2002, for example, an AAMB suicide bomber detonated himself in the middle of a crowded street in Jerusalem, killing three and injuring 86. Less than three weeks earlier, another AAMB suicide bomber had killed ten and injured 50 at a bar mitzvah celebration.⁶ The Brigades openly admitted their allegiance to Arafat. Indeed, one commander in

³ Matthew Levitt, *Targeting Terror: U.S. Policy toward Middle Eastern State Sponsors and Terrorist Organizations*, Post-September 11 (Washington, DC: Washington Institute for Near East Policy, 2002), p. 86.

⁴ "Country Reports on Terrorism," *US Department of State*, April 27, 2005, <http://www.state.gov/j/ct/rls/crt/45394.htm>.

⁵ "Federal Register Volume 67, Number 59," *Government Printing Office*, March 27, 2002, <http://www.gpo.gov/fdsys/pkg/FR-2002-03-27/html/02-7492.htm>.

⁶ "Suicide Bombing in the Beit Yisrael Neighborhood in Jerusalem," Israeli Ministry of Foreign Affairs, Accessed August 28, 2012.

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Tulkarem acknowledged, "We receive our instructions from Fatah. Our commander is Yasser Arafat himself."⁷

Documents seized from PA offices by the Israeli military during Operation Defensive Shield (2002) further demonstrated that Fatah, the dominant faction of the Palestinian Authority, bankrolled nearly every aspect of the AAMB's terrorist operations-from explosives to guns and gas money.⁸ "The captured documents proved unequivocally that the Fatah organization and the AI Aqsa Martyrs Brigades are one and the same and they cannot be separated," an Israeli report stated.⁹

Following a review of the seized documents, Israeli authorities concluded that "Yasser Arafat was personally involved in the planning and execution of terror attacks. He encouraged them ideologically, authorized them financially and personally headed the Fatah AI Aqsa Brigades organization."¹⁰ They further charged that Arafat had "gave terrorism 'free reign' (by releasing senior terrorists from prison and refrained from carrying out minimal counter-terrorist

www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/3/Suicide+bombing+in+the+Beit+Yisrael+neighborhood+i.htm
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⁷ Matthew Kalman, "Terrorist Says Orders Come from Arafat," *USA Today*, March 14, 2002, www.usatoday.com/news/world/2002/03/14/usat-brigades.htm.

⁸ "The Involvement of Arafat, PA Senior Officials and Apparatuses in Terrorism Against Israel: Corruption and Crime," Israeli Ministry of Foreign Affairs, May 6, 2002, www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/5/The%20Involvement%20of%20Arafat-%20PA%20Senior%20Officials%20and.

⁹ "The Involvement of Arafat, PA Senior Officials and Apparatuses in Terrorism Against Israel: Corruption and Crime," Israeli Ministry of Foreign Affairs, May 6, 2002, www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/5/The%20Involvement%20of%20Arafat-%20PA%20Senior%20Officials%20and.

¹⁰ "The Involvement of Arafat, PA Senior Officials and Apparatuses in Terrorism Against Israel: Corruption and Crime," Israeli Ministry of Foreign Affairs, May 6, 2002, www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/5/The%20Involvement%20of%20Arafat-%20PA%20Senior%20Officials%20and.

activity) and even encouraged terrorism (inciting the Palestinian population-the 'Shahid speeches', financing and fostering terrorists)." ¹¹

Arafat personally praised numerous attacks, including the 2001 Dolphinarium discotheque bombing in Tel Aviv, which killed a large number of Israeli youths. According to Arafat, the attack was a "heroic martyrdom operation." ¹²

Additionally, Hamas officials, including Mahmoud al Zahar, have contended that it was Arafat himself who gave them to green light to carry out attacks against Israel during the second *intifada*. According to al Zahar, "Yasser Arafat ordered the Hamas movement to carry out a number of military actions in the heart of the Hebrew state, after he felt that the current negotiations with the occupation government had failed." ¹³

From the start of the second *intifada*, the Palestinian leadership was also engaged in full-fledged incitement primarily against Israel, but in some cases, the United States. For example, soon after the launch of the uprising, PA-run television was broadcasting sermons calling for the murder of Jews and Americans. ¹⁴

¹¹ "The Involvement of Arafat, PA Senior Officials and Apparatuses in Terrorism Against Israel: Corruption and Crime," Israeli Ministry of Foreign Affairs, May 6, 2002, www.mfa.gov.il/MFA/MFAArchive/2000_2009/2002/5/The%20Involvement%20of%20Arafat-%20PA%20Senior%20officials%20and.

¹² "Arafat's Condolences to Dolphinarium Bomber's Family: The Heroic Martyrdom Operation!...'A Model of Manhood and Sacrifice for Allah and the Homeland... ', "MEMRI, Special Dispatch No. 237, July 9, 2001, <http://www.memri.org/report/en/0/0/0/0/0/476.htm>.

¹³ Jonathan D. Halevi, "The Palestinian Authority's Responsibility for the Outbreak of the Second Intifada: Its Own Damning Testimony," Jerusalem Center for Public Affairs, February 20, 2013, <http://jcpa.org/article/the-palestinian-authoritys-responsibility-for-the-outbreak-of-the-second-intifada-its-own-damning-testimony/>.

¹⁴ "PA TV Broadcasts Call for Killing Jews and Americans," MEMRI, Special Dispatch No. 138, October 13, 2000, <http://www.memri.org/report/en/0/0/0/0/0/378.htm>.

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Throughout the conflict, there was no doubt as to who was in control and whether the leadership was aware of all the attacks. A Fatah Central Committee member in December 2000 told the PA-run *Al Hayat Al Jadida* that "the leadership of the PA remained the source of authority, and it alone was the factor capable of leading the operations of the Intifada throughout the homeland. I can say for certain that brother Abu-Ammar [Palestinian Authority Chairman Yasser Arafat] is the ultimate authority for all operations, and whoever thinks otherwise, does not know what is going on..."¹⁵

In 2001, Sheikh Ikrima Sabri, the Mufti of Jerusalem who was on the Palestinian Authority payroll, praised suicide attacks.¹⁶ PA television also promoted "jihad and martyrdom." In June 2001, one sermon broadcast by the station stated, "Blessings to whoever waged Jihad for the sake of Allah; blessings to whoever raided for the sake of Allah; blessings to whoever put a belt of explosives on his body or on his sons' and plunged into the midst of the Jews."¹⁷ Another sermon on the PA-run station asserted, "We must educate our children on the love of Jihad for the sake of Allah and the love of fighting for the sake of Allah."¹⁸ Yet another sermon broadcast

¹⁵ "A Fatah Official on the Intifada and Its Goals," MEMRI, Special Dispatch No. 165, December 13, 2000, <http://www.memri.org/report/en/0/0/0/0/0/402.htm>.

¹⁶ "The Highest Ranking Palestinian Authority Cleric; In Praise of Martyrdom Operations," MEMRI, Special Dispatch No. 266, June 11, 2001, <http://www.memri.org/report/en/0/0/0/0/0/466.htm>.

¹⁷ "Friday Sermon on PA TV: Calling for Suicide Bombings," MEMRI, Special Dispatch No. 228, June 13, 2001, <http://www.memri.org/report/en/0/0/0/0/0/467.htm>.

¹⁸ "A Friday Sermon on PA TV: ... We Must Educate our Children on the Love of Jihad..." MEMRI, Special Dispatch No. 240, July 13, 2001, <http://www.memri.org/report/en/0/0/0/0/0/478.htm>.

by PA TV said that there would be "blessings for whoever has saved a bullet in order to stick it in a Jew's head..."¹⁹

Americans Killed During Second Intifada

According to the Israel Security Agency (Shin Bet or Shabak), between September 29, 2000 and 2004, at least 1,028 innocent people died as a result of Palestinian terror attacks. An additional 5,760 innocent people were wounded during the same period.²⁰ From the start of the *intifada*, American citizens were among those killed and wounded. The following represents a partial list, verified and publicized by the United States Congress in House Concurrent Resolution 119, dated March 26, 2003:²¹

- On October 30, 2000, United States citizen Esh-Kodesh Gilmore, 25, was shot in Jerusalem;
- On December 31, 2000, Rabbi Binyamin Kahane, 34, and his wife, Talia Hertzlich Kahane, both formerly of New York City, were killed in a drive-by shooting near Ofra;
- On May 9, 2001, Jacob 'Koby' Mandell, 13, of Silver Spring, Maryland, was killed in an attack near Tekoa;
- On May 29, 2001, Sarah Blaustein, 53, of Lawrence, New York, was killed in a drive-by shooting near Efrat;

¹⁹ "Friday Sermon on PA TV: Blessings to Whoever Saved a Bullet to Stick It In a Jew's Head," MEMRI, Special Dispatch No. 252, August 8, 2001, <http://www.memri.org/report/en/0/0/0/0/0/492.htm>.

²⁰ "Fatalities and Injuries in the Last Decade," Israel Security Agency, Accessed March 13, 2013, <http://www.shabak.gov.il/English/EnTerrorData/decade/Fatalities/Pages/default.aspx>.

²¹ "H.Con.Res.119," *Government Press Office*, March 26, 2003, <http://beta.congress.gov/108/bills/hconres119/108hconres119ih.pdf.pdf>.

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- On August 9, 2001, two United States citizens, Judith L. Greenbaum, 31, and Maika Roth, 15, were killed in the Jerusalem Sbarro pizzeria bombing;
- On November 4, 2001, Shoshana Ben-Yishai, 16, of New York City, was shot and killed during an attack on a Jerusalem bus;
- On January 15, 2002, Avraham Boaz, 72, of New York City, was killed in a shooting near Bethlehem;
- On January 18, 2002, United States citizen Aaron Elis, 32, was killed in a shooting in Hadera;
- On February 15, 2002, United States citizen Lee Akunis, was shot and killed near Ramallah;
- On February 16, 2002, Keren Shatsky, 14, of New York City and Maine, and Rachel Thaler, 16, of Baltimore, Maryland, were killed in a bombing in Kamei Shomron;
- On February 25, 2002, United States citizen Moran Amit, 25, was stabbed and killed in Abu Tor Peace Forest, Jerusalem;
- On March 24, 2002, Esther Kleinman, 23, formerly of Chicago, was shot and killed near Ofra;
- On March 27, 2002, United States citizen Hannah Rogen, 90, was killed in a bombing at a hotel Passover seder in Netanya;
- On June 18, 2002, Moshe Gottlieb, 70, of Los Angeles, was killed in a bus bombing in Jerusalem;

- On June 19, 2002, United States citizen Gila Sara Kessler, 19, was killed in a bombing at a Jerusalem bus stop;
- On July 31, 2002, five United States citizens were killed in a bombing of a Hebrew University cafeteria: Marla Bennett, 24, of San Diego, Benjamin Blutstein, 25, of Susquehanna Township, Pennsylvania, Janis Ruth Coulter, 36, of Massachusetts, David Gritz, 24, of Peru, Massachusetts (and of dual French-United States citizenship), and Dina Carter, 37, of North Carolina;
- On March 5, 2003, Abigail Leitel, 14, who was born in Lebanon, New Hampshire, died in a bus bombing in Haifa.

US Requests to End Violence and Congressional Legislation

These Palestinian terrorist attacks, which were often directed by Yasser Arafat and the PA leadership, continued to take place even after the first reports of American casualties. Indeed, at no point did the violence against civilian targets let up during the years 2000 to 2004. Rather, they increased in frequency and number. This indicates that the PA, as it continued to direct the violence, was not willing to cease its paramilitary campaign despite the mounting American casualties.

It was (and remains) common knowledge that tens of thousands of Israeli citizens are dual nationals who hold US citizenship (there are approximately 300,000 today).²² American-Israelis are indistinguishable from the broader Israeli public. Moreover, Israel (and particularly

²² Michele Chabin, "American Citizens Living In Israel, Abroad Cast Votes," *USA Today*, October 31, 2012, www.usatoday.com/story/news/world/2012/10/31/israel-ex-pats/1669543/.

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Jerusalem) is an important international tourist destination with hundreds of thousands of visitors arriving each year to tour the biblical sites. Additionally, many thousands of foreign students, including American citizens, study abroad in Israel during the school year and summer recesses.

At any given time, there are thousands of foreigners, including many Americans, traveling in Israel. As such, the Palestinian terrorist groups surely knew that, by perpetrating terrorist attacks in public streets, on passenger buses, in cafes and on highways, there was a high probability that American citizens could be murdered and injured.

The notion that Palestinian terror groups or the Palestinian leadership that controlled them were unaware that American citizens were being wounded or killed is, bluntly speaking, impossible. In each terrorist attack, the international media publicized the death and injury of the American or Americans in question.

The US government made it clear from the beginning of the *intifada* that Americans were in danger. The State Department issued multiple travel warnings, including on December 7, 2001,²³ August 2, 2002,²⁴ January 10, 2003,²⁵ March 24, 2004,²⁶ August 3, 2004,²⁷ and

²³ "Israel, the West Bank and Gaza - Travel Warning," *U.S. Department of State*, December 7, 2001, <http://statelists.state.gov/scripts/wa.exe?A3=ind0112b&L=DOSTRAVEL&E=O&P=444&B=--&T=text%2Fplain;%20charset=iso-8859-1&header=1>

²⁴ "Israel, the West Bank and Gaza - Travel Warning," *U.S. Department of State*, August 2, 2002, <http://statelists.state.gov/scripts/wa.exe?A2=ind0208B&L=DOSTRAVEL&P=R218&I=-3&d=No+Match%38Match%38Matches>

²⁵ "Israel, the West Bank and Gaza - Travel Warning," *U.S. Department of State*, January 10, 2003, <http://statelists.state.gov/scripts/wa.exe?A3=ind0301b&L=DOSTRAVEL&E=O&P=442&B=--&T=text%2Fplain;%20charset=iso-8859-1&header=1>

²⁶ "Travel Warning - Israel, the West Bank and Gaza," *U.S. Department of State*, March 24, 2004, <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=599>

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November 26, 2004.²⁸ In other words, the U.S. State Department made it clear every few months that the dangers to American citizens remained high, as a result of the continued Palestinian violence. These warnings were obviously issued to Americans, but they were conveyed via State Department channels each time to the Palestinian Authority.

Congress also made it clear that it was concerned about the role the PA played in the violence, and consistently called upon the PA to halt the intifada immediately. Their concern was primarily focused on ending the violence, without specific regard for potential American casualties.

For example, on October 19, 2000, House Resolution 5500 called for the establishment of a body within the Justice Department to "monitor acts of international terrorism alleged to have been committed by Palestinian individuals or individuals acting on behalf of Palestinian organizations."²⁹

House Concurrent Resolution 426, which passed on October 25, 2000, condemned "the Palestinian leadership for encouraging the violence and doing so little for so long to stop it, resulting in the senseless loss of life." In addition, it called on "the Palestinian leadership to refrain from any exhortations to public incitement."³⁰

²⁷ "Israel West Bank and Gaza Travel Warning," *US. Department of State*, August 3, 2004, http://statelists.state.gov/scripts/wa.exe?A3=ind0408a&L=DOSTRAVEL&E=O&P=245431&B=-----%3D_NextPart_001_01C47A26.4EOEB870&T=text%2Fplain;%20charset=iso-8859-1&header=1

²⁸ "Israel, the West Bank, and Gaza," *US. Department of State*, November 26, 2004, http://web.archive.org/web/20041230204200/http://travel.state.gov/travel/cis_pa_tw/tw/tw_922.html

²⁹ "H.R. 5500," *Government Press Office*, October 19, 2000, <http://www.gpo.gov/fdsys/pkg/BILLS-106hr5500ih/pdf/BILLS-106hr5500ih.pdf>.

³⁰ "H. Con. Res. 426," *Government Press Office*, October 25, 2000, <http://www.gpo.gov/fdsys/pkg/BILLS-106hconres426eh/pdf/BILLS-106hconres426eh.pdf>.

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House Resolution 5522, introduced on October 19, 2000, warned that United States assistance (other than humanitarian assistance) may not be provided to the PA unless it could be certified that the PA leadership had 1) renounced violence and 2) undertaken efforts to end the violence.³¹

On March 15, 2001, House Resolution 1087 called for the cessation of US aid to projects in the West Bank and Gaza Strip until the Palestinian leadership renounced violence and the conflict with Israel subsided.³²

In April 2001, a group of 87 senators and 209 representatives called on President Bush to not invite Yasser Arafat to the White House until the *intifada* ceased.³³

However, following the murder of American citizen Kobi Mandell in May 2001, American legislators introduced legislation in both the Senate³⁴ and House³⁵ calling once again for the establishment of a body within the Justice Department to "monitor acts of international terrorism alleged to have been committed by Palestinian individuals or individuals acting on behalf of Palestinian organizations." Legislators specifically noted that "terrorists involved in the murders of Americans are walking free there; some of these terrorists have been given positions

³¹ "H.R. 5522," *Government Press Office*, October 19, 2000, <http://www.gpo.gov/fdsys/pkg/BILLS-106hr5522ih/pdf/BILLS-106hr5522ih.pdf>.

³² "H.R. 1087," *Government Press Office*, March 15, 2001, <http://www.gpo.gov/fdsys/pkg/BILLS-107hr1087ih/pdf/BILLS-107hr1087ih.pdf>.

³³ "Congress Criticizes Palestinian Ties," *JTA*, April 5, 2001, <http://www.jta.org/news/article/2001/05/20/6983/Congresscriticizes>.

³⁴ "S. 1377," *Government Press Office*, August 3, 2001, <http://www.gpo.gov/fdsys/pkg/BILLS-107s1377is/pdf/BILLS-107s1377is.pdf>.

³⁵ "H.R. 2098," *Government Press Office*, June 7, 2001, <http://www.gpo.gov/fdsys/pkg/BILLS-107hr2098ih/pdf/BILLS-107hr2098ih.pdf>.

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in the Palestinian Authority security forces or other official Palestinian Authority agencies; and a number of schools, streets, and other public sites have been named in honor of terrorists who were involved in the murders of Americans."³⁶

In the months that followed, Congress continued to pass legislation that condemned the Palestinian Authority,³⁷ the Palestine Liberation Organization (PLO),³⁸ the Palestinian leadership/⁹ the Palestinian terrorist infrastructure,⁴⁰ and Yasser Arafat personally.⁴¹

But the problem of American casualties continued to emerge as an issue on Capitol Hill. On March 26, 2003, House Concurrent Resolution 119 condemned Palestinian terror attacks that killed or wounded American citizens in Israel.⁴² The language included a long list of American victims of terror attacks perpetrated by Palestinian terrorist groups, and noted that "Palestinian Authority television [had] broadcast...a live sermon calling for the destruction of the United

³⁶ "S. 684," *Government Press Office*, March 21, 2003, <http://www.gpo.gov/fdsys/pkg/BILLS-108s684is/pdf/BILLS-108s684is.pdf>.

³⁷ House Concurrent Resolution 202, which passed on July 27, 2001, condemned the "the Palestinian Authority and various Palestinian organizations for using children as soldiers and inciting children to acts of violence and war." <http://www.gpo.gov/fdsys/pkg/BILLS-107hconres202ih/pdf/BILLS-107hconres202ih.pdf>.

³⁸ Clyde Mark, "Palestinians and Middle East Peace: Issues for the United States," *Congressional Research Service*, April 13, 2005. The 2002 Foreign Operations Appropriates Bill called upon the PLO to be in compliance with past commitments.

³⁹ House Resolution 392, which passed on May 2, 2002, condemned "the ongoing support of terror by Yasir Arafat and other members of the Palestinian leadership." <http://www.gpo.gov/fdsys/pkg/BILLS-107hres392eh/pdf/BILLS-107hres392eh.pdf>.

⁴⁰ On May 2, 2002, the Senate passed an amendment House Resolution 3009, which expressed solidarity with Israel and demanded "that the Palestinian Authority fulfill its commitment to dismantle the terrorist infrastructure in the Palestinian areas." <http://www.govtrack.us/congress/bills/107/hr3009/text/eas>.

⁴¹ On May 9, 2002, House Resolution 4693, also known as the Arafat Accountability Act, was introduced to the House. <http://beta.congress.gov/bill/107th-congress/house-bill/4693/text>.

⁴² "H. Con. Res. 119," *Government Press Office*, March 26, 2003, <http://www.gpo.gov/fdsys/pkg/BILLS-108hconres119ih/pdf/BILLS-108hconres119ih.pdf>.

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States and Israel," calling it a "blatant attempt to incite violence against the United States and Israeli citizens."

Months later, three Americans were killed and one was wounded in the Gaza Strip when a bomb targeted a three-car U.S. diplomatic convoy.⁴³ This was the first clearly deliberate targeting of Americans since the conflict erupted. President George W. Bush lashed out at the Palestinian Authority, with specific frustration aimed at the lack of security sector "reforms that continue to be blocked by Yasser Arafat."⁴⁴ On November 6, 2003, House Resolution 3460 was introduced, calling on the US government "to prohibit assistance to be provided to the Palestinian Authority and the Palestinian people until the perpetrators, or suspected perpetrators, of the killings of United States citizens in Gaza on October 15, 2003, are surrendered to the United States Government."⁴⁵

The culprits behind that attack were not found. As Assistant Secretary of State William Burns noted on December 10, 2003, "I want to speak plainly about the importance the United States attaches to investigating the murder of three of our diplomatic colleagues in Gaza last fall. We are still waiting for results in that investigation." He added that US assistance to the

⁴³ "Three Killed in Gaza Convoy Blast," *The Guardian*, October 15, 2003. <http://www.guardian.co.uk/world/2003/oct/15/israel.usa>

⁴⁴ "President Condemns Terrorist Act in Gaza Wednesday," The White House, October 15, 2003, <http://georgewbush-whitehouse.archives.gov/news/releases/2003/10/20031015-2.html>.

⁴⁵ "H.R. 3460," *Government Press Office*, November 6, 2003, <http://beta.congress.gov/108/bills/hr3460/108hr3460ih.pdf.pdf>

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Palestinians was halted, noting that "all the donors must have confidence that our personnel can carry out cooperation with the Palestinian people in reasonable safety."⁴⁶

However, even with this warning, American casualties from Palestinian terrorist attacks continued to mount. In July 2004, Congress passed House Resolution 713, which noted that "more than 50 United States citizens have been killed and more than 80 United States citizens injured by Palestinian terrorists in Israel, the West Bank, and Gaza since 1993."⁴⁷ Many of those had come during the span of 2000-2004, a period known as the peak years of the al-Aqsa *Intifada*, when the Palestinian Authority was both carrying out and inciting violent attacks inside Israel.

CONCLUSION

In this report, I have demonstrated that the Fatah faction and the Palestinian Authority, both under the effective control of Yasser Arafat, were behind the terror campaign known as the al-Aqsa *Intifada*. This low-level war was responsible for the deaths of hundreds of innocent Israeli civilians and scores of Americans. If the PA was not aware of the initial American victims, it would become impossible to ignore that the casualty count was growing during the period 2000 to 2004. International news sources all covered the growing body count. In August 2003, the *Washington Post* estimated that about 900 victims had been killed. *Amnesty International* confirmed these figures through the end of 2003. This report has identified

⁴⁶ William J Burns, "Meeting of the Ad Hoc Liaison Committee on Assistance to the Palestinians (AHLC)," *US. Department of State*, December 10, 2003, <http://2001-2009.state.gov/p/nea/rls/rm/27512.htm>.

⁴⁷ "H. Res. 713," *Government Press Office*, July 13, 2004, <http://www.gpo.gov/fdsys/pkg/BILLS-108hres713ih/html/BILLS-108hres713ih.htm>.

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specific instances in which the State Department warned of Palestinian violence against Americans and instances in which Congress called upon the PA to cease its campaign of violence that claimed the lives of Americans. The fact that this violence continued uninterrupted, despite the repeated calls by the United States government to cease, clearly demonstrates that the Palestinian Authority was unconcerned with the loss of American lives, and ultimately led to the continued deaths of U.S. citizens.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: San Antonio, Texas
March 22, 2013



Dr. Jeffrey F. Addicott, S.J.D., LL.M., J.D.



Guadalupe Valdez
3/22/2013